

*A1
cont*

- a) providing a straight length of axially and radially rigid tubing having a length between ends substantially equal to the select length of the straight line portion of the flexible cable route;
- b) feeding the portion of the flexible cable corresponding to the straight line portion of the flexible cable route through the axially and radially rigid tubing; and
- c) fixing the ends of the axially and radially rigid length of tubing against axial movement.

REMARKS

Claim 11 has been amended to correct a minor typographical error.

ELECTION WITH TRAVERSE

The Examiner has required that the claims be restricted to the following inventions:

Invention I: Claims 1-10, drawn to an apparatus of a bicycle cable guide system; and

Invention II: Claims 11-15 drawn to a method of routing a flexible cable.

The Examiner submits that Inventions I and II are related as a process of making and a product made. The Examiner contends that the inventions are distinct as the process claimed can be used to make another and materially different product, such as a fiber optic cable system.

Applicants respectfully traverse the restriction requirement. If, as the Examiner contends, Invention I and Invention II are related as a process of making and a product made, then the burden is on the Examiner to show either or both of the following: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make other and different products; or (B) that the

product as claimed can be made by another and materially different process. MPEP § 806.05(f) (emphasis added). Applicants respectfully point out that the Examiner has failed to meet this burden. Specifically, although the Examiner contends that the process as claimed can be used to make other and different products, the Examiner has failed further to contend that the process as claimed is not an obvious process of making the product. MPEP § 806.05(f) clearly requires that both of these showings must be made. Furthermore, Applicants respectfully point out that the Examiner's contention that the process as claimed can be used to make a fiber optic cable system is also flawed. All of the claims of Invention II are limited to a method of routing a flexible cable between a cable actuated bicycle component and a cable actuator. Claim 15 further specifies that the cable actuated bicycle component is a cable actuated disc brake caliper. In other words, Invention II is specifically and narrowly tailored for practice by the device of Invention I. The flexible, actuating cables used in the instant invention are simply not comparable to thin glass fibers used in optical fiber systems. Optical fibers are used to transmit light, not to function as flexible cables for the actuation of bicycle components. It is entirely unclear to Applicants how the claimed method, designed for use with bicycles, can find application in a fiber optic cable system.

Additionally, Applicants note that if an application includes claims to distinct or independent inventions, the Examiner must nonetheless examine it on the merits if the search and examination can be made without serious burden. MPEP § 803. Even if Examiner remains persuaded that the application contain claims to distinct or independent inventions, which Applicants in no way concede, the search can nonetheless be performed without serious burden. Specifically, despite the fact that the two groups fall into separate classifications, searches for the devices of Invention I would necessarily require inquiry into the methods that such devices are used for, and searches for the methods of Invention II would necessarily require inquiry into the devices used to carry out the methods. Because one search would encompass both the method and apparatus claims, no serious burden results.

Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement. Should the Examiner refuse to withdraw the restriction requirement, Applicants pursuant to 37 C.F.R. 1.143 hereby elects Group I, claims 1-10

drawn to a bicycle cable guide system, and cancels claims 11-15 without prejudice to the right to file a divisional application claiming the cancelled subject matter.

The Examiner further contends that the application contains claims to nine patentably distinct species of the claimed invention. Applicants agree that Figures 1, 2, 3A, and 3B depict species of the claimed invention; however, as the remaining figures depict only elements of the claimed invention, they cannot be said to depict patentably distinct species of the claimed invention. Finally, contrary to the Examiner's contention, Applicants submit that the claims are generic.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account 19-5117.

Respectfully submitted,



Thomas D. Bratschun, #32,966
Swanson & Bratschun, LLC
1745 Shea Center Drive, Suite 330
Highlands Ranch, Colorado 80129
303-268-0066